

REMARKS

A. Status of the Application

Claims 1-20 remain pending and are presented for reconsideration.

B. Section 103 Rejection

1. Claims 1-3, 6-7, 9-13, 15, 18, and 20 are Patentably Distinct

Claims 1-3, 6-7, 9-13, 15, 18, and 20 stand rejected under 35 U.S.C § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,856,913 to Silberstein. Applicant respectfully traverses.

Independent claim 1, recites in part, “making the encrypted test result data available to a user, wherein unencrypted raw test response and unencrypted test result data within the computer device is not accessible to a user of the computer device.” Independent claims 11 and 18 recite similar limitations. The Silberstein reference fails to disclose unencrypted raw test response and unencrypted test result data, as agreed upon by the Examiner. See pages 2 and 3 of the Final Office Action. The Office relies again upon the disclosure of a network firewall and implies that the use of the network firewall may prevent access to unencrypted test data. See *id.* This conclusion is incorrect.

The mere discussion that a network firewall may be installed does not render obvious making the encrypted test result data available to a user, wherein unencrypted raw test response and unencrypted test result data within the computer device is not accessible to a user of the computer device, as recited in claim 1. First, as one of ordinary skill in the art would recognize, a network firewall, either software and/or hardware, protects a computer network from access from outsiders (e.g., hackers, unauthorized users, and the like) as well as controlling what outside resources (e.g., websites) users can access. The network firewall does not prevent access to data on the network from, for example, users of the network (e.g., authorized users).

For example, in a typical session as outlined in column 5, steps 1 though 11 (lines 11-53), the Silberstein reference states that following a preliminary diagnosis by a clinician (e.g., a psychiatrist, clinical psychologist, or other medical practitioner) (steps 1 and 2), a nurse or technician may download a test (step 4) and administers the test (steps 5, 7, 8 and 9). Results from the test are recorded (step 6), analyzed (step 10) and is provided in graphical and/or report

form for consideration (step 11). It appears that any person (e.g., the clinician, nurse, and/or technician) can view the test results as it is being recorded (step 6) or the test results as they are presented in step 11.

In contrast, the Specification discloses complying with Food and Drug Administration regulation which does “not allow the storage of patient test data on a remote computer system in a form which could be intentionally or unintentionally altered.” (Specification, page 2, lines 21-26; *see also* page 10, lines 23-25). In one non-limiting example, the Specification discloses “all raw and processed data is encrypted prior to being written into non-volatile memory 350 or transmitted through network interface 360 thereby making it accessible *only* by the test group that administers the clinical trial.” (Specification, page 10, lines 5-9). Claims 1, 11, and 18 recite technology for achieving this, in direct contradiction to Silberstein.

For at least these reasons, independent claims 1, 11, and 18, and their respective dependent claims are patentable over the cited reference. Applicant respectfully requests the removal of the § 103 rejection.

2. *Claims 4-5 and 16-17 are Patentably Distinct*

Claims 4-5 and 16-17 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the Silberstein reference in further view of U.S. Patent No. 6,550,011 to Sims, III. Applicant respectfully traverses.

As noted above, the Silberstein fails to teach or suggest the elements of independent claims 1 and 11. The Sims reference fails to provide the deficiencies. The Sims reference provides techniques for securing the transmission of data over unsecured channels. *See Abstract.* The Sims reference fails to teach or suggest unencrypted raw test response and unencrypted test result data within a computer device such that they are not accessible to a user of the computer device, as recited in claims 1 and 11.

For at least these reasons, independent claims 1 and 11, and their respective dependent claims are patentably distinct over the cited references. Applicant respectfully requests the removal of the section 103 rejections.

3. *Claims 8, 14, and 19 are Patentably Distinct*

Claims 8, 14, and 19 stand rejected under 35 U.S.C § 103(a) as allegedly being unpatentable over the Silberstein reference in further view of U.S. Publication No. 2002/0052562 to Lipman. In light of the claim amendments and following comments, Applicant respectfully traverses.

The Lipman reference is directed to pain assessment. *See Abstract.* The Lipman reference is silent to any teaching or suggestion for unencrypted raw test response and unencrypted test result data within a computer device and making them inaccessible to a user of the computer device, as recited in claims 1, 11, and 18.

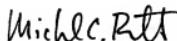
Both the Lipman and Silberstein references, separately or in combination, fail to teach or suggest all the elements of the independent claims. For at least these reasons, claims 1, 11, and 18, and their respective dependent claims are patentably distinct over the cited references.

CONCLUSION

Applicant believes that these remarks fully respond to all outstanding matters for this application. Applicant respectfully requests that the rejections of all claims be withdrawn so the claims may swiftly pass to issuance.

Should the Examiner desire to sustain any of the rejections discussed in this Response, the courtesy of a telephone conference between the Examiner, the Examiner's supervisor, and the undersigned attorney at 512-536-3018 is respectfully requested in advance.

Respectfully submitted,



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